

LABOUR DEPARTMENT

The 3rd April, 1995

No. 14/13/87-6Lab./490.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. Sonapat Central Co-operative Consumer Store Ltd., Sonapat *versus* Daya Ram.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, ROHTAK

Reference No. 144 of 1987

between

WORKMAN SHRI DAYA RAM, S/O SHRI SISH RAM, VILLAGE AND
POST OFFICE BARWASANI, DISTRICT SONEPAT

and

THE MANAGEMENT OF M/S SONEPAT CENTRAL CO-OPERATIVE
CONSUMER STORE LTD., SONEPAT.

Present :

Shri V. S. Singal, authorised representative for the workman.

Shri M. C. Bhardwaj, authorised representative, for the management.

AWARD

In exercise of powers conferred by sub-clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana has referred the following dispute, between the parties, named above, to this Court, for adjudication,—*vide* Labour Department Endorsement No. 19545—50, dated the 20th May, 1987 :—

Whether the termination of services of Shri Daya Ram is justified and in order? If not, to what relief he is entitled?

2. The workman and the management were summoned. The workman appeared and filed the statement of claim that he was working as chowkidar for the last eight years on Rs. 700 per month he was suspended on 20th March, 1986 without assigning any reason, he was not served with charge-sheet and no proper enquiry was held. As the enquiry was simply on eye wash. During suspension period no suspension allowance was given and the termination of the services is illegal, wrong and unjustified.

3. The management appeared and filed the written statement with the aversons that he was suspended on 20th March, 1986 on complaint of misconduct on the part of claimant, he was issued charge-sheet by registered post but he had not replied the same. As proper legal enquiry was held to the charges by the Assistant Registrar Co-operative Societies, Sonapat which was attended by the claimant who submitted his report on the basis of enquiry, final show cause notice was issued to him on dated 20th November, 1986 which was replied by him. The claimant was paid his suspension allowance under rule during pendency of the enquiry proceedings. The termination is to misconduct of the same and is based upon the findings of the Enquiry Officer. In case the enquiry is found defective the management reserve its right to prove the misconduct before this Court.

4. Replication was filed by the workman. On the pleadings of the parties, the following issues were framed :—

(1) As per terms of reference?

(2) Whether a proper and just enquiry was held against the workman? OPR

(3) Relief?

5. Issue No. 2 was treated as Preliminary issue. My learned predecessor,—*vide* order dated 15th December, 1988 held that enquiry is answered against the management but the management was left at liberty to adduced evidence on merits.

Issue No. 1:

6. The workman has come into witness box as WW—2 and made the statement he was appointed on 19th March, 1986, his son fell ill and therefore, the management was enraged of his not coming and joining the duty and his services were terminated. The management has examined Shri Balwan Singh as MW—1 Smt. Manjit Kaur as MW—2, Shri Maha Singh as MW—3 on issue No. 2. As there is no evidence produced by the management on issue No. 1 and hence I do not find if the workman is not entitled to the post on the job or which he was retrenched as the enquiry was held against the management and in favour of the workman. As such I decide this issue in favour of the workman.

Issue No. 3 (Relief):

7. In view of my findings on the above issues I accept the reference petition and claim statement and I order that the workman is entitled to the job with continuity of service but with 50% (fifty) of back wages. The reference is answered and returned accordingly. The parties are left to bear their own costs.

The 2nd March, 1995.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

Endorsement No. Ref. 144-87/465, dated the 9th March, 1995.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

The 6th April, 1995

No. 14/13/87-6Lab./521.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Faridabad, in respect of the dispute between the workman and the management of M/s. A. K. Rubber Industries, N.I.T., Faridabad *versus* Bhagwan Sahu :—

BEFORE SHRI N. L. PRUTHI, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, FARIDABAD

Reference No. 94/94

In the matter of Industrial Dispute.

between

SHRI BHAGWAN SAHU, C/O SHRI HOOB LAL YADAV, H. No. 530 NEAR PREM PUBLIC SCHOOL, DAYAL NAGAR, POST OFFICE AMAR NAGAR, FARIDABAD

and

M/S A. K. RUBBER INDUSTRIES, C-2217, JAWAHAR COLONY, AIR FORCE ROAD, NIT, FARIDABAD,

Present :

Shri Hoob Lal, Authorised Representative for the workman.

Management *Ex parte*.

AWARD

Under the provisions of section 10(1)(c) of Industrial Disputes Act, 1947, the Government of Haryana have,—*vide* Endorsement No. ID/FD/Faridabad/46-94/20620-25, dated the 25th May, 1994, referred the following dispute between the parties above named for adjudication:—

Whether the termination of services of Shri Bhagwan Sahu is legal and justified ? If not, to what relief he is entitled to ?

2. The case of the workman is that he had been working with the management as mixureman for two years and his last drawn wages were Rs. 1,500 p.m. There had been no complaint with regards to his work and conduct. Without serving him with any notice or charge sheet and without assigning any reason, his services were terminated in an illegal and unlawful manner on 1st December, 1993. Requests made by him to revoke his termination which was made verbally did not have any effect. It is on these facts that the workman has claimen his reinstatement with continuity of service and full back wages.

3. Notice was given to the management but the same did not care to put in appearance. It was thus, proceeded *ex parte* on 20th October, 1994 and the workman was called upon to lead *ex parte* evidence.

4. In his examination as WW-1 the workman reiterated all the facts as are contained in the demand notice which had been adopted as claim statement. The workman also stated that the management had also not paid him his wages for the period from June, 1993 to November, 1993 and also over-time at the rate of four hours per day for the above said period.

5. Since the Management has chosen not to appear, pleas taken in the demand notice and proved by the workman in his examination as WW-1 go unrebutted and are accepted. The termination of the services of the workman is, therefore, held illegal and unjustified and he is hold entitled to reinstatement with continuity of service and full back woges.

6. An award is passed accordingly.

N. L. PRUTHI,

The 16th March, 1995.

Presiding Officer,
Industrial Tribunal-cum-
Labour Court-I, Faridabad.

Endorsement No. 559, dated the 16th March, 1995.

A copy, with three spare copies, is forwarded, to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh.

N. L. PRUTHI,

Presiding Officer,
Industrial Tribunal-cum,
Labour Court-I, Faridabad.

The 3rd May, 1995

No. 14/13/87-6Lab./591.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon in respect of the dispute between the workman and the management of Transport Commissioner, Haryana, Chandigarh *versus* Abdul Rahim

IN THE COURT OF MRS. ANITA CHAUDHARY, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GURGAON

Reference No. 184 of 1989

between

ABDUL RAHIM, S/O ABDUL GANI, C/O SHRI BHIM SINGH YADAV, 65—A, CHAWLA COLONY, 100 ROAD, BALLABGARH, DISTRICT FARIDABAD

and

- (1) THE MANAGEMENT OF TRANSPORT COMMISSIONER, HARYANA, CHANDIGARH
- (2) GENERAL MANAGER, HARYANA ROADWAYS, GURGAON.

Present :

Shri B. S. Yadav, authorised representative for the workman.

Shri A. S. Rath, authorised representative for the management.

AWARD

In exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act), the Governor of Haryana referred the following dispute between the parties mentioned above, to this court for adjudication,—*vide* Haryana Government, Gazette Notification No. 15290—96, dated the 31st March, 1989 ;—

Whether termination of services of Shri Abdul Rahim, Ticket Varifier, is justified and in order ? If not, to what relief is he entitled ?

2. According to the claim statement, the workman was engaged by the management as Ticket Verifier at Gurgaon Depot. The petitioner worked from 1st June, 1981 to 23rd August, 1982 at Sub-Depot Delhi, which was under the control of Faridabad Depot. He was then transferred to Gurgaon Depot, on 23rd August, 1982. The management illegally terminated his service on 16th November, 1983. Against his illegal termination, the Petitioner filed an appeal but to no effect and later served a demand notice on 9th July, 1988. The petitioner has sought his reinstatement with full back wages as he had put in continuous service for a period of more than 240 days and was not paid any compensation at the time of termination.

3. The management took up the plea admitting the fact that the petitioner was appointed as Ticket Verifier on daily wages on 21st May, 1981 and then he was transferred from Faridabad to Gurgaon. Rest of the allegations have been denied. It was denied that the workman had put in continuous service of 240 days. It was pleaded that the story regarding filing appeal before the State Transport Commissioner was only to cover the long gap i.e. 1983 to 1988 and the claim was barred by limitation.

4. On these pleadings following issue were framed:—

- (1) Whether the reference is barred by time ?
- (2) Whether the reference is not maintainable.
- (3) Whether termination of services of Shri Abdul Rahim, Ticket Verifier is justified and in order ? If not, to what relief is he entitled ?

5. I have heard authorised representatives of the parties. My findings on the issues are as under:—

Issue No. 1 and 2 :

6. Both these issues were not pressed before me, therefore, it shall be taken as not pressed.

Issues No. 3:

7. The management has examined Hans Raj MWI, who deposed that the petitioner was employed as a Ticket Verifier on 21st March, 81 on daily wages and proved appointment letter Ex.M2- In his cross examination he admitted that he had put in continuous service and at the time of his termination neither any notice or compensation had been paid. He could not say as to whether the petitioner had filed any appeal before the State Transport Commissioner.

8. The workman has examined himself as WWI and has reiterated the case set out in the demand notice and has sought his reinstatement with full back wages as he had put in continuous service of over 240 days.

9. Ex. M1 is the appointment letter which shows that the petitioner had been appointed as Ticket Verifier on daily wages and he was to be paid wages at the rate fixed by the Deputy Commissioner. According to the management service were terminated as no longer required on 15th November, 1983,—vide Ex. M 3. It is also admitted by the management in their written statement that the petitioner had been transferred from Faridabad to Gurgaon and he had worked in Gurgaon Depot from 23rd August, 1982 to 15th November, 1983. It has also come in evidence that the petitioner had put in continuous service as long as he was in service. Since it is admitted by the management that there was no break in service and as the petitioner had put in continuous service of over 240 days the petitioner was entitled to notice and compensation in terms of section 25F of the Industrial Disputes Act. Admittedly no notice or compensation had been given paid therefore termination of the petitioner is illegal and he is entitled to reinstatement with back wages from the date of demand notice i.e. 9th July, 1988 as he did not take any action from 1983 to October 1988. Reference is answered accordingly with no order as to costs.

ANITA CHAUDHARY,

Presiding Officer,

The 15th March, 1995 .

Industrial Tribunal-cum-Labour Court,
Gurgaon.

Endorsement No. 389, dated the 31st March, 1995.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh.

ANITA CHAUDHARY,

Presiding Officer,

Industrial Tribunal-cum-Labour Court,
Gurgaon.

K. G. VERMA,

Financial Commissioner and Secretary to Government, Haryana,
Labour and Employment, Department.